Court No.2

In the High Court of Uttaranchal, at Nainital.

(1) **First Appeal No.336 of 2001** (Old No.476 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and three Ors.
..... Respondents.

(2) **First Appeal No.416 of 2001** (Old No.351 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(3) **First Appeal No.327 of 2001** (Old No.452 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and two Ors.
..... Respondents.

(4) **First Appeal No. 328 of 2001** (Old No.466 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and another.
..... Respondents.

(5) **First Appeal No. 104 of 2001** (Old No.335 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(6) **First Appeal No. 106 of 2001** (Old No.337of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(7) **First Appeal No. 107 of 2001** (Old No.338 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(8) **First Appeal No. 108 of 2001** (Old No.339 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(9) **First Appeal No. 110 of 2001** (Old No.341 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(10) **First Appeal No. 422 of 2001** (Old No. 344 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(11) **First Appeal No. 420 of 2001** (Old No.347 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(12) **First Appeal No. 111 of 2001** (Old No.342 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.

..... Respondents.

(13) First Appeal No. 419 of 2001 (Old No.348 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(14) First Appeal No. 329 of 2001 (Old No. 467 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(15) First Appeal No. 330 of 2001 (Old No. 468 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(16) First Appeal No. 418 of 2001 (Old No. 349 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(17) First Appeal No. 331 of 2001 (Old No. 469 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.
Versus
The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(18) First Appeal No. 417 of 2001 (Old No. 350 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.
Versus
The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(19) First Appeal No. 333 of 2001 (Old No. 471 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.
Versus
The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(20) First Appeal No. 584 of 2001 (Old No. 472 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.
Versus
The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(21) First Appeal No. 334 of 2001 (Old No. 473 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.
Versus
The State of U.P. through Collector,
Dehradun and Ors.

..... Respondents.

(22) First Appeal No. 585 of 2001 (Old No. 474 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(23) First Appeal No. 337 of 2001 (Old No. 477 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(24) First Appeal No. 592 of 2001 (Old No. 481 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(25) First Appeal No. 587 of 2001 (Old No. 482 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(26) First Appeal No. 588 of 2001 (Old No 483 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.

..... Respondents.

(27) First Appeal No. 589 of 2001 (Old No. 484 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(28) First Appeal No. 590 of 2001 (Old No. 486 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(29) First Appeal No. 595 of 2001 (Old No. 488 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(30) First Appeal No. 591 of 2001 (Old No. 489 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(31) First Appeal No. 598 of 2001 (Old No. 494 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.

..... Respondents.

(32) First Appeal No. 602 of 2001 (Old No. 497 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(33) First Appeal No. 603 of 2001 (Old No. 498 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(34) First Appeal No. 398 of 2001 (Old No. 431 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(35) First Appeal No. 393 of 2001 (Old No. 426 of 1998)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(36) First Appeal No. 600 of 2001 (Old No. 496 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(37) First Appeal No. 586 of 2001 (Old No. 479 of 1997)

U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

(38) First Appeal No. 601 of 2001 (Old No. 480 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

AND

(39) First Appeal No. 338 of 2001 (Old No. 478 of 1997)
U.P. State Industrial Development
Corporation Ltd. through the Secretary
of the above Corporation.
..... Appellant/Opp.party.

Versus

The State of U.P. through Collector,
Dehradun and Ors.
..... Respondents.

Date: 28th Sept.,2004.

Hon'ble P.C.Verma,J.
Hon'ble B.S.Verma,J.

All these appeals have been filed by the appellant/Opp.-Party-Uttar Pradesh State Industrial Development Corporation under Section 54 of the Land Acquisition Act against the Common Judgment and award dated 13-05-1997 passed by the Additional District Judge, Dehradun in Land Acquisition Reference Cases (leading case No. 201 of 1988).

2- In all these appeals, the judgment under appeals, have been challenged by the appellant on common

grounds. No. appeal has been argued separately on any other ground. Therefore these appeals are being decided by this one common judgment.

3- Brief facts giving rise to these appeals are that 245.91 acre of land belonging to Central Hope Town (Haripur, Selakuin), Tehsil & District-Dehradun was acquired by the Collector, Dehradun for the Uttar Pradesh State Industrial Development Corporation (***in short UPSIDC***) for developing an Industrial Complex. The Notification under Section 4(1) of the Land Acquisition Act, 1894 (***hereinafter referred to as the Act***) was issued on 08.05.1985. The UPSIDC has taken over the possession of said acquired land on 17.03.1986, award of which has been given by the Special Land Acquisition Officer, Dehradun on 22.11.1986. It was on the basis of that award only that all these claimants/respondents were also awarded compensation. Aggrieved by the said Award, the claimants-landholders submitted applications for Reference to the Collector under Sec. 18 of the Act and the Collector, Dehradun referred the matter to the District Judge, Dehradun.

4- Before the Reference Court all these respondents alleged that the compensation awarded to them is highly inadequate. The acquired land, related to the references, was belonged to Haripur Selakuin (Central Hope Town), and was situated at Chakrata Road-20 Kms. away from Dehradun City. The said land was plane land and had a high potential value. It had all the facilities like; water, electricity, road, bus-service etc. in the adjoining land, several industrial units have been established. Near this acquired land, besides the above facilities, the facilities of telephone, school, hospital, bank, Post Office and petrol pump are available. The Special Land Acquisition Officer

(*in short the S.L.A.O.*) has incorrectly determined the compensation on the basis of settlement year 1937-38 which was the last settlement. He further fell into error in not taking into consideration the sale deed of Khasra No. 238 as an exemplar, which was part of the acquired land. It was further alleged that prior to Notification under Sec.4 of the Act the rate of said acquired land was above Rs. 50,000/- per Bigha, due to which the claimants/applicants are entitled to get compensation at the rate more than Rs. 60,000/- per Bigha alongwith 30% solatium and interest etc.

5- The reference cases were opposed by the opposite party-UPSIDC by filing its written objections in which it has been stated that the compensation awarded is adequate, just and reasonable. The rate of compensation has been determined on the basis of sale transaction and in accordance with law and the exemplar which represented the true market value of the land was chosen and made the basis of the award. The acquired land is agriculture land and no facility of electricity etc. is there. The exemplar pertaining to Khasra No. 238 does not represent the true market value of the land and, therefore, it was not chosen the basis of the award. The compensation has been awarded to the owners of the land on the basis of the quality of the land and, therefore, no illegality or irregularity has been committed by the S.L.A.O. in giving the award for the acquired land.

6- The Reference Court framed necessary issues on the point raised by the parties and after scrutinizing the evidence adduced by the parties held that the compensation paid by the S.L.A.O. at the rate of Rs. 96,000/- per acre based on the sale deed dated 22.01.1985 in adequate and the applicants/respondents are entitled

to get compensation of the acquired land at the rate of Rs. 1,50,000/- per acre. Feeling aggrieved, the UPSIDC has come up in these appeals.

7- Sri Sharad Sharma, learned counsel for the appellant in all these appeals pressed these appeals only on the following two grounds:-

(i) That the learned Additional District Judge has made the award on the basis of only one exemplar of sale deed dated 22.1.1985, which was for 0.81 acre, for a huge chunk of land measuring 245.91 acres. The exemplar relied on by the Addl. District Judge was not admissible in evidence inasmuch as no certified copy was filed before the S.L.A.O. In absence of certified cop[y, the Xerox copy was required to be proved either by the vendor or by the vendee. The Addl. District Judge fell into error in holding the said sale deed as exemplar by applying the provisions of Sec.51A of the Act, which attracts only in case a certified copy of filed;

(ii) That a huge chunk of land was acquired and the award has been made by the reference court on the flat rate of Rs. 1,50,000/- per acre. The Addl. District Judge ought to have applied either the classification of the land or belting system or one-third deduction.

8- Sri Ashok Aggarwal, learned counsel for the respondents in all these appeals submitted that the land acquired though is a huge chunk of land but is situated in a well defined and developed block surrounded by road from all the directions. It constitutes a compact of developed area. Therefore, the Addl. District Judge has rightly awarded the compensation at the flat rate, as the potentiality of the entire land was same in view of the location of the land. It was declared an industrial area and industries were situated there.

9- The contention submitted by the learned counsel for the appellant that the Addl. District Judge has relied only one exemplar and made award for a huge chunk of land has been thoroughly dealt with by the reference court. The reference court has held that it was a compact developed area surrounded by the roads and the exemplar of sale deed dated 22.01.1985 was for 0.81 acre which was executed four months before the date of notification under Sec. 4 of the Act. The exemplar relied on by the appellant-UPSIDC was dated 22.2.1985. The learned Addl. District Judge has rightly found that no sale consideration was paid before the Sub Registrar and it was for a small piece of land measuring 250 Sq. feet X 50 Sq. feet i.e. 1334 Sq. Meters. The reference court has further relied on the Government Order No. 9/23/81-708-Ra-2, Revenue Abubhag, dated 6th July, 1981 filed by the respondents and Para 221 (o) of the Land Acquisition Manual applicable in the State of U.P. for relying on the exemplar which was at a highest rate. Provision of Para 221 (o) of the said Manual has been reiterated in the G.O. dated 6th July, 1981, by which the Government has itself directed to rely on the exemplar which is on the higher side, so that the claimants whose land have been acquired may not have any grievance.

10- As regards the admissibility of the sale deed relied on by the learned Addl. District Judge is concerned, it is not disputed that the certified copy was filed before the reference court which is an admissible document under Section 51A of the Act. Sec. 51A provides that in any proceeding under this Act, a certified copy of a document registered under the Registration Act, 1908 including a copy given under section 57 of that Act, may be accepted as evidence of the transaction recorded in such document.

The learned Addl. District Judge has also considered the evidence of D.W.1-Sri A.P.Dikshit who was examined by the appellant/Opp.party. In his statement on oath he had admitted that the entire acquired land is surrounded by the industrial area. In view of this statement, the potentiality of the land has rightly been taken to be equal for entire area of land acquired. Considering the potentiality on the basis of evidence on record before the Addl. District Judge, he has rightly determined the rate of compensation at a flat rate. Thus, the first contention of the learned counsel for the appellant has no force. The Reference court has rightly decided this point. Accordingly, we confirm the judgment on this point.

11- So far as the second contention of the learned counsel for the appellant that either the classification or belting system or one-third deduction ought to have been applied. This contention of learned counsel for the appellant is contrary to the evidence led by the appellant. The statement of his own witness D.W.1-Sri A.P.Dikshit, who has stated in his cross-examination that industries are there on and in the surrounding of the acquired land. It is a developed land closed by at a distance of 1-1/2 Kms. from the road. School, water and electricity line, banks are there and Dehradun-Chakrata Road was passing through the midst of the acquired land. Thus, the reference court rightly held that though the land acquired was a huge chunk of land but it was a developed block and was having potentiality and awarded the compensation at a flat rate of Rs.1,50,000/- per acre. The Apex Court in the case ***Meharban and others versus State of U.P. and others, reported in (1997) 6 Supreme Court Cases, Page 54*** has held that if the entire land is situate in well-defined and developed blocks application of belting system is not

applicable. Since the land is situated within the industrial area, therefore the learned Addl. District Judge rightly disagreed with the finding of the classification made by the S.L.A.O. treating it to be agriculture land.

12- Sri Ashok Aggarwal, learned counsel for the respondents prays that Photostat copy of award dated 7.6.1990 made in Case No. 25-(1987-88) may be taken on record, for the reason that in making such award the Collector, Dehradun has relied on same exemplar which has not been relied on by the Collector in these cases while the land acquired in these cases was part of the chunk of the same land. The same be kept on record as it is not disputed by the other side. The Apex Court in the case of ***Nand Ram & others versus The State of Haryana,*** reported in ***All India Land Acquisition and Compensation Cases, Volume 3, 1989, Page 1*** has held that the State cannot refuse to pay in respect of lands acquired under the same notification compensation awarded to the land owners whose similarly situated lands had been acquired under the same notification for the same purpose by the Notification of the same date. In view of the law laid down by the Apex Court, the Collector has erred in not relying the same exemplar.

13- The exemplar relied on by the learned Addl. District Judge has been relied on by the Collector in the subsequent notification for granting compensation for acquisition dated 03.6.1987 for an area of 2.17 acre and has paid compensation at the rate of Rs. 2.5 lakh per acre. The Apex Court in the case of ***Karan Singh and others versus Union of India,*** reported in ***(1997) 8 Supreme Court Cases, Page 186*** has held that the previous judgments of courts in land acquisition cases or awards given by the Land Acquisition Officers can be made basis to

determined the market value of the subsequent land acquired.

14- In these appeals, compensation at the lesser rate has been paid by the Reference Court by the impugned award on the basis of exemplar of sale deed dated 22.1.1985 while on the basis of same exemplar the S.L.A.O. has granted higher compensation in the land acquisition proceedings in which notification under Sec. 4 of the Act was issued on 3.6.1987. Therefore, in these appeals the compensation awarded by the Reference Court perfectly just and proper.

15- So far as one-third deduction is concerned, it has been held by the Apex Court in the case of ***Kasturi and others versus State of Haryana,*** *reported in* ***(2003) 1 Supreme Court Cases, Page 354*** that normally 1/3rd amount of compensation has to be deducted out of amount of compensation towards development charges subject to certain variations. The learned Addl. District Judge has relied upon the sale deed dated 22.1.1985 which is of the area of 0.81 acre to determine the market value for payment of compensation. The consideration was based in sale deed of Rs. 1,80,000/- per acre but in the facts and circumstances of the case, the learned Addl. District Judge deducted Rs. 30,000/- which is approximately 17%. In view of the law down by the Apex Court in *Kasturi and others versus State of Haryana* (supra) the finding given by the learned Additional District Judge does not call for any interference.

16- For the reasons recorded above the appeals are devoid of merit and are hereby dismissed. No order as to costs.

(B.S.Verma,J.) **(P.C.Verma,J.)**

P.Singh